STATE BOARD OF EQUALIZATION
BEFORE THE ADMINISTRATIVE JUDGE

IN RE:	Hugh L. Binkley, et. ux Map 016-00-0, Parcels 60.00 & 297.00 Residential Property (Greenbelt) Tax Year 2006	))))	Davidson County

INITIAL DECISION AND ORDER

Statement of the Case

The subject properties are presently valued as follows:

Parcel 60.00

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$31,723	$134,800	$166,523	$41,630 -- Current Use
$100,697	$134,800	$235,497	$58,874—Current Market

Parcel 297.00

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT
$31,943	$222,900	$254,843	$63,710 -- Current Use
$90,412	$222,900	$313,312	$78,328—Current Market

An Appeal has been filed on behalf of the property owners with the State Board of Equalization on September 6, 2006.

This matter was reviewed by the undersigned administrative law judge pursuant to Tennessee Code Annotated (T.C.A.) §§ 67-5-1412, 67-5-1501 and 67-5-1505. This hearing was conducted on November 14, 2006, at the Division of Property Assessment's Office; present at the hearing were Hugh and Martha Binkley the taxpayers who represented themselves, and Mr. Jason Poling, Residential Appraiser, Division of Assessments for the Metro. Property Assessor.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject properties consist of two (2) farms located adjacent to each other at 2163 Union Hill Road and 2171 Union Hill Road, respectfully in Goodlettsville, Tennessee.

The taxpayers, Hugh and Martha Binkley, contend that the properties are worth $350,000 totally. Mr. Binkley, the spokesperson for the family, states that the farms were one farm that was recently divided into the two separate farms that are the subject of this appeal[1]. Mr. Binkley states that the value of the two (2) farms should be he same as it was

[1] Mr. Binkley stated that they are getting advanced in age and they wanted to divide their farm to make it easier for their children after their deaths.

for the one. Nothing has changed there have been no additions. The only renovations, according to Mrs. Binkley, were the replacement windows that were put on the structure on Parcel 60.00. Mrs. Binkley testified that there are extensive termite damage as well as foundation problems. The problems are so dramatic that the central support joist is damaged and the floors through out the house are sagging. According to the testimony of the taxpayers the structures[2] on the properties are not really habitable, they are used more for storage than living in.

The assessor contends that the property should be valued at $235,497 (Parcel 60.00) and $313,312 (Parcel 297.00) based upon the action of the Metropolitan Board of Equalization and four (4) comparable sales that were introduced as to each parcel. The germane issue is the value of the property as of January 1, 2006.

The basis of valuation as stated in T.C.A.§ 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . . ."

General appraisal principles require that the market, cost and income approaches to value be used whenever possible. Appraisal Institute, *The Appraisal of Real Estate* at 50 and 62. (12th ed. 2001). However, certain approaches to value may be more meaningful than others with respect to a specific type of property and such is noted in the correlation of value indicators to determine the final value estimate.

The value indicators must be judged in three categories: (1) the amount and reliability of the data collected in each approach; (2) the inherent strengths and weaknesses of each approach; and (3) the relevance of each approach to the subject of the appraisal. *Id.* at 597-603.

The value to be determined in the present case is market value. A generally accepted definition of market value for ad valorem tax purposes is that it is the most probable price expressed in terms of money that a property would bring if exposed for sale in the open market in an arm's length transaction between a willing seller and a willing buyer, both of whom are knowledgeable concerning all the uses to which it is adapted and for which it is capable of being used. *Id.* at 21-22.

The sales comparison approach is considered the most reliable method of determining the market value of residential property. Mr. Binkley presented evidence that he believes shows his property is overvalued. Mr. Binkley stated that the surrounding farms pay less taxes than he does while the land of those other properties is flatter and more buildable than his. The County produced topography maps in their comparable

[2] With the exception of the home that they live in on Parcel 297.00

analysis which shows that the subject properties are indeed hilly but, as pointed out by Mr. Poling, the County has already made an adjustment in their evaluation of the properties.

After having reviewed all the evidence in this case, the administrative judge finds that the subject property should be valued at $235,497(Parcel 60.00) and $313,312 (Parcel 297.00) based upon the presumption of correctness attaching to the decision of the Davidson County Board of Equalization and supported by the presentation of the County's representative, Mr. Poling.

Unfortunately, the Binkley's argument for equal treatment is without merit. The case law is replete with cases that essentially hold that it is of no consequence how much or how little your neighbors' property is valued but being able to demonstrate by competent evidence the fair market value of your own property that is essential in proving the County Boards values are incorrect.

As the Assessment Appeals Commission noted in *Payton and Melissa Goldsmith*, Shelby County, Tax year 2001, in quoting the Tennessee Supreme Court in the case of Carroll v. Alsup, 107 Tenn. 257, 64 S.W.193 (1901):

> It is no ground for relief to him; nor can any taxpayer be heard to complain of his assessments, when it is below the actual cash value of the property, **on the ground that his neighbors' property is assessed at a less percentage of its true or actual value than his own.** When he comes into court asking relief of his own assessment, he must be able to allege and show that his property is assessed at more than its actual cash value. He may come before an equalizing board, or perhaps before the courts, and show that his neighbors' property is assessed at less than its actual value, and **ask to have it raised to his own,** . . . (emphasis supplied)

In yet another case, the administrative judge finds that the April 10, 1984, decision of the State Board of Equalization in *Laurel Hills Apartments, et. al.* (Davidson County, Tax Years 1981 and 1982), holds that "as a matter of law property in Tennessee is required to be valued and equalized according to the "Market Value Theory'." As stated by the Board, the Market Value Theory requires that property "be appraised annually at full market value and **equalized by application of the appropriate appraisal ratio** . . ." Id. at 1.(emphasis added)

The Assessment Appeals Commission elaborated upon the concept of equalization in *Franklin D. & Mildred J. Herndon* (Montgomery County, Tax Years 1989 and 1990) (June 24, 1991), when it rejected the taxpayer's equalization argument reasoning in pertinent part as follows:

> In contending the entire property should be appraised at no more than $60,000 for 1989 and 1990, the taxpayer is attempting to compare his appraisal with others. There are two flaws in this approach. First, while the taxpayer is certainly entitled to be appraised at no greater percentage of value than other taxpayers in Montgomery County on the basis of equalization, the assessor's proof establishes that this property is not appraised at any higher percentage of value than the level prevailing in

> Montgomery County for 1989 and 1990. That the taxpayer can find other properties which are more under appraised than average **does not entitle him to similar treatment.** Secondly, as was the case before the administrative judge, the taxpayer has produced an impressive number of "comparables" but has not **adequately indicated how the properties compare to his own in all relevant respects**. . . . (emphasis added) Final Decision and Order at 2.

See also *Earl and Edith LaFollette*, (Sevier County, Tax Years 1989 and 1990) (June 26, 1991), wherein the Commission rejected the taxpayer's equalization argument reasoning that "[t]he evidence of other tax-appraised values might be relevant if it indicated that properties throughout the county were under appraised . . ." Final Decision and Order at 3.

Since the taxpayer is appealing from the determination of the Davidson County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Control Board,* 620 S.W. 2d 515 (Tenn. App. 1981).

With respect to the issue of market value, the administrative judge finds that Mr. and Mrs. Binkley simply introduced insufficient evidence to affirmatively establish the market value of subject property as of January 1, 2006, the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a).

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2006:

Parcel 60.00

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT	
$31,723	$134,800	$166,523	$41,630	-- Current Use
$100,697	$134,800	$235,497	$58,874—Current Market	

Parcel 297.00

LAND VALUE	IMPROVEMENT VALUE	TOTAL VALUE	ASSESSMENT	
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$90,412	$222,900	$313,312	$78,328—Current Market	

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **"must be filed within thirty (30) days from the date the initial decision is sent."** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **"identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order"**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or

3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 14th day of December, 2006.

ANDREI ELLEN LEE
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. and Mrs. Hugh L. Binkley
Jo Ann North, Property Assessor